

Title 710 Securities Division

Final Rule LSA Document #06-135

Digest:

Amend 710 IAC 1-14-4 to remove the requirement that reports of financial condition be filed annually although the reports of financial condition still must be prepared and made available to the Securities Division upon request. Effective 30 days after filing with the Secretary of State.

710 IAC 1-14-4

SECTION 1. 710 IAC 1-14-4 IS AMENDED TO READ AS FOLLOWS:

710 IAC 1-14-4 Reports made by brokers

Authority: IC 23-2-1-15

Affected: IC 23-2-1-8; IC 23-2-1-10

Sec. 4. (a) The following are the requirements for filing reports:

- (1) This section shall apply to every broker-dealer registered under IC 23-2-1-8.
 - (2) Every broker-dealer subject to this rule shall prepare and submit to the securities division upon request reports of financial condition containing the information required:
 - (A) as of a date within sixty (60) days of the date of filing an application for a license as a broker-dealer; and
 - (B) annually as of the close of the broker-dealer's fiscal year.
 - (3) Such annual reports shall be prepared not more than sixty (60) days after the date as of which his or her financial condition is reported. If the applicant or licensee is registered with the Securities and Exchange Commission, as a broker-dealer the reports of financial condition as filed with such agency shall be deemed to be in compliance herewith.
- (b) Each report of financial condition prepared under subsection (a) shall be prepared in accordance with the following requirements:
- (1) The report of a broker-dealer shall be certified by a certified public accountant or a public accountant who in fact shall be independent, except a report prepared under subsection (a)(3) that is not required to be certified under the rules of the Securities and Exchange Commission.

- (2) Attached to the report shall be an oath or affirmation that, to the best knowledge and belief of the person making such oath or affirmation, the financial statement and supporting schedules are true and correct and neither the broker-dealer nor any partner, officer, or director, as the case may be, has any proprietary interest in any account classified solely as that of a customer. This oath or affirmation shall be made before a person duly authorized to administer such oaths or affirmations. If the broker-dealer is a:
- (A) sole proprietorship, the oath or affirmation shall be made by the proprietor;
 - (B) partnership, it shall be made by a general partner; and
 - (C) corporation, it shall be made by a duly authorized officer.

- (3) If statements of financial condition furnished pursuant to the requirements of broker-dealer reports are bound separately from the balance of the report, and are deemed confidential under Rule 17a-5 under the Securities Exchange Act of 1934 (17 CFR 240.17a-5), they shall be deemed confidential, except that they shall be available for official use by:
- (A) any official or employee of the United States or any state,
 - (B) national securities exchanges and national securities associations of which the person preparing such report is a member; and
 - (C) any other person to whom the commissioner authorizes disclosure of such information as being in the public interest.

Nothing contained in this subdivision shall be deemed to be in derogation of the rules of any national securities association or national securities exchange that gives to customers of a broker-dealer the right, upon request to such broker-dealer, to obtain information relative to its financial condition.

(c) The requirements for the use of certain statements filed with the Securities and Exchange Commission and national securities exchanges are as follows:

- (1) Any broker-dealer who is subject to the provisions of subsection (a) may prepare in lieu of the report required by that subsection a copy of any financial statements which he or she is, or has been, required to file with any national securities exchange of which he or she is a member, provided that such financial statements reflect his or her financial condition as of a date not more than sixty (60) days prior to the date required in subsection (a) by the division, and the report as filed with the division meets the requirements of this rule and contains the information called for by it.
- (2) At the request of any broker-dealer who is an investment company registered under the Investment Company Act of 1940, or a sponsor or depositor of such a registered investment company who effects transactions in securities only with, or on behalf of, such registered investment company, the commissioner shall accept any statement of his or her financial condition filed pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 and the rules and regulations promulgated thereunder.

(d) In the event any broker-dealer finds that he or she cannot prepare his or her report for any year within the time specified in subsection (a) or (c) without undue hardship, he or she may file

with the division an application for an extension of time to a specified date, which shall not be more than ninety (90) days after the date as of which his or her financial condition is reported. The application shall:

- (1) state the reasons for the requested extension; and
- (2) contain an agreement to prepare the report on or before the specified date.

(Securities Division; 710 IAC 1-14-4; filed Mar 24, 1986, 3:27 p.m.: 9 IR 2044, eff Jun 1, 1986; filed Sep 27, 1988, 11:00 a.m.: 12 IR 350; readopted filed Aug 17, 2001, 2:20 p.m.: 25 IR 204; filed Nov 27, 2006, 2:02 p.m.: 20061227-IR-710060135FRA)